

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

PAUL SIMONDS)	CASE NO. C06-1385-RSL
)	
Plaintiff,)	
)	
v.)	ORDER DENYING APPLICATION
)	TO PROCEED IN FORMA
JUDGE ZILLY et al.,)	PAUPERIS AND DISMISSING
)	CASE
Defendants.)	
_____)	

Plaintiff, proceeding *pro se*, has submitted an application to proceed *in forma pauperis* (IFP) along with a complaint under 42 U.S.C. § 1983. Plaintiff's complaint, which identifies Judge Zilly and Sweepstakes Clearinghouse as defendants, is difficult for the Court to decipher in that it strings together phrases, dates, and isolated references to federal statutes, rules of evidence and civil procedure. Plaintiff appears to allege that Judge Zilly violated due process, although the complaint contains no specific facts in support of this claim. Plaintiff appears to seek relief in the form of "merchandise" that includes certain electronics and household goods listed in the complaint. *See* Dkt. #1, Attachment 1 at 2.

Pursuant to 28 U.S.C. § 1915(e)(2)(B), this Court may deny an application to proceed IFP and shall dismiss an action if it is frivolous or the complaint fails to state a claim upon which relief can be granted. *See* 28 U.S.C. § 1915(e)(2)(B)(I)-(ii); *O'Loughlin v. Doe*, 920 F.2d 614,


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1 614 (9th Cir. 1990). An action is frivolous if “it lacks an arguable basis either in law or in fact.”
2 *Neitzke v. Williams*, 490 U.S. 319, 325 (1989).

3 Here, Plaintiff’s complaint fails to allege any facts to place defendants on notice of the
4 nature of his claims or to otherwise provide any basis for jurisdiction in this Court. The
5 complaint contains no allegations regarding defendant Sweepstakes Clearing house. Moreover,
6 the Supreme Court has granted absolute immunity to judges and officials performing quasi-
7 judicial functions. *See Fry v. Melaragno*, 939 F.2d 832, 835-36 (9th Cir. 1991), *quoting*
8 *Mitchell v. Forsyth*, 472 U.S. 511, 520 (1985). Thus, Plaintiff’s claim against Judge Zilly is
9 barred by absolute immunity. Because this action appears frivolous, and also fails to state a
10 claim upon which relief can be granted, it is subject to dismissal under 28 U.S.C. § 1915(e)(2)(B)
11 and Fed. R. Civ. P. 12(b)(6).

12 Accordingly, Plaintiff’s IFP application is DENIED because the underlying complaint
13 fails to state a claim upon which relief may be granted, and this matter is DISMISSED without
14 prejudice. *See* 28 U.S.C. § 1915(e)(2)(B).

15 DATED this 2nd day of November, 2006.

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18 Robert S. Lasnik
United States District Judge

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20 Recommended for entry
this 31st day of October, 2006:

21
22 /s/Monica J. Benton
23 MONICA J. BENTON
24 United States Magistrate Judge

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